

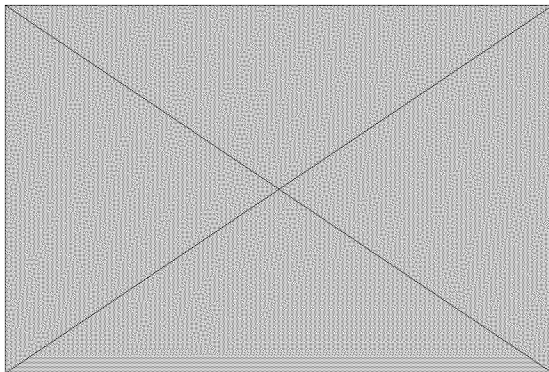
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**Subject:** Experts Agree: Water Protection Laws of WV Should be Enforced

## Experts Agree: Water Protection Laws of WV Should be Enforced

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### Experts Agree: Water Protection Laws of WV Should be Enforced

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#### **WVU College of Law**

##### **Speakers say the public needs to keep pressure on government**

From an Article by David Beard, Morgantown Dominion Post, March 25, 2014

NOTE: The WVU College of Law hosted an "Environmental Law" panel discussion in the new area of their building in Morgantown on Monday, March 24<sup>th</sup>. Over 100 people attended this event of the Center for Sustainable Energy and Development.

Government laxity played a major role in the Elk River spill that contaminated the water supply of 300,000 Kanawha Valley residents, experts said at a WVU symposium Monday evening. And public pressure will play a major role in making sure it's never repeated. "You can have all the laws in the world, the best laws in the world, but they have to be enforced," WVU law professor Patrick McGinley told the crowd.

West Virginia officials and agencies have a long history of letting industry have its way, to the detriment of the state's water resources, he said. McGinley cited the late West Virginia federal Judge Charles H. Haden II, who said this institutionalized passivity created a "climate of lawlessness."

As an example, McGinley cited Massey Energy, which self-reported more than 4,500 Clean Water Act violations from 2000 to 2006. The State Department of Environmental Protection never looked at the reports, he said. The U.S. Environmental Protection Agency eventually got involved and fined Massey \$20 million in 2008, he said. More recently, the EPA fined Massey successor Alpha Natural Resources \$27 million for more than 6,000 violations, also overlooked by DEP.

The new comprehensive water protection regulations in SB 373, passed on March 8, can help McGinley said. But the government will need watching over. "I hope the citizens of West Virginia will hold DEP's feet to the fire," along with the rest of the state government to enforce the new law.

SB 373's lead sponsor, Sen. John Unger, D-Berkeley, expanded on McGinley's thoughts. He said that while he and his staff were drafting SB 373, dedicated to protecting the state's water, the governor's staff was huddling with chemical industry representatives to draft their own version, SB 417.

SB 417's opening paragraphs talk about protecting industry. Unger said public pressure led to SB 417 dying and SB 373 moving forward. "You were ready to burn anybody who tried to touch it." But it doesn't end with passing a bill, he said. Industry will keep pressure on the government through its well-paid lobbyists. "While you're not paying attention, they are." Keep pressure on the governor and the DEP. Exert that pressure at the ballot box. "If you wait for someone else to do it for you, it's not going to get done."

Paul Ziemkiewicz, director of WVU's West Virginia Water Research Institute, noted that the primary chemical in the Elk River spill, MCHM, wasn't and isn't considered hazardous. <NOTE: It will cause burning of the eyes and skin and may be hazardous to pregnant women.> To prevent future spills, everything that potentially threatens a water supply should be treated as hazardous and kept well contained.

Dr. Rahul Gupta, executive director of the Kanawha-Charleston Health Department, talked about the lack of knowledge about MCHM, about the conflicting information being handed out by federal and state officials, the failed attempts at reassurance and the massive level of distrust all that engendered. Sometimes it's best to say you don't know, he said. "The reverse is very difficult. We found out the hard way."

His office had been conducting informal surveys of the residents of the affected area, he said, and the continued lack of trust is evident. A March 1 survey showed only 5 percent of the respondents drinking the water. .

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